

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-105. Obstruction of drainage ditches.
- 16-106. Animals and vehicles on sidewalks.
- 16-107. Property numbers.
- 16-108. Shrubbery, trees, or hedges on right-of-way.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street or alley for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials or washing or servicing vehicles except in an emergency.

No person shall use or occupy any portion of any sidewalk or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise, or materials except that merchants having a business license or others permitted by such merchants to do so may use that portion of the sidewalk or right-of-way lying between any building they own or rent and the street for such purposes so long as such use will not substantially impede the flow of pedestrian traffic. (1995 Code, § 16-101, modified)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen feet (14'). (1995 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1995 Code, § 16-103, modified)

16-104. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk. (1995 Code, § 16-106)

16-105. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1995 Code, § 16-107)

16-106. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably to interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1995 Code, § 16-109)

16-107. Property numbers. All persons, firms, corporations or other legal entities constructing new structures in the City of Fayetteville shall obtain a property address from The Fayetteville-Lincoln County Emergency Communication District.

The Fayetteville-Lincoln County Emergency Communication District shall advise each person or entity applying for a property address to post such number in a conspicuous place on the structure within thirty (30) days of occupancy of the structure.

If the owner or occupant of any property required to be numbered by this section shall neglect for a period of twenty (20) days to duly attach and maintain the proper number on such property, the city clerk shall serve upon him a notice requiring such owner or occupant to number the same properly and if he neglects to do so for a period of ten (10) days after the service of such notice, he shall be deemed to have violated this section. (1995 Code, § 16-110, modified)

16-108. Shrubbery, trees, or hedges on right-of-way. No person on the public right-of-way shall plant or maintain shrubbery, trees or hedges without permission of the city, which permission shall be evidenced by a permit issued by the building official only after determining that said shrubbery, trees or hedges will not obstruct the vision of persons using driveways, alleys, sidewalks or public streets. Property owners shall take reasonable steps to prevent vegetation lawfully planted on their properties from growing in such a

manner that it blocks or otherwise interferes with streets or sidewalks in the city. Said permission may be revoked at any time by the building official on fifteen (15) days' notice and no person shall acquire any property rights by virtue of said permit. (1995 Code, § 16-111, modified)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Deposit or bond.
- 16-204. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-205. Restoration of streets, etc.
- 16-206. Insurance.
- 16-207. Time limits.
- 16-208. Supervision.
- 16-209. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, other than the City of Fayetteville or Fayetteville Public Utilities, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1995 Code, § 16-201, modified)

16-202. Applications. Applications for such permits shall be made to the city clerk, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of *City of Paris, Tennessee v. Paris-Henry County Public Utility District*, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the city clerk within twenty-four (24) hours of its filing. (1995 Code, § 16-202)

16-203. Deposit or bond. A permit shall not be issued unless and until the applicant therefore has deposited with the city clerk a cash deposit in the sum of one thousand dollars (\$1,000.00) for any excavation on public property including all public rights-of-way, to insure the property restoration of the ground, except that where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city clerk may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality or as its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a cash deposit the applicant may deposit with the city clerk a surety bond in the amount of one thousand dollars (\$1,000.00) to cover the costs to the municipality if the applicant fails to make proper restoration. (1995 Code, § 16-204)

16-204. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1995 Code, § 16-205)

16-205. Restoration of streets, etc. Any person, firm, corporation, association, utility or others making any excavation in any street, alley, or public place in this municipality shall restore said street, alley, or public place to the specifications hereinafter set out, and shall be paid for by such person, firm, corporation, association, utility or others promptly upon the completion of the work for which the excavation was made. The city may authorize a duly licensed contractor who is performing excavations on the streets, alleys or public ways to complete the surfacing to the city's specifications, provided the contractor guarantees in writing the surface for one (1) year. In case of unreasonable delay in completion of work, the city shall give notice to the person, firm, corporation, association, utility or others that unless the excavation is refilled properly, within a specified period of time, the municipality will do the repair or contract said repair and charge the expense to the particular party.

Street repair specifications are as follows:

(1) From six inches (6") above tops of pipe or minimum standards up to within six inches (6") of finished grade, backfill with crushed stone. Dispose of all excavated materials that are not replaced as backfill.

(2) Within sixty (60) days settling, the contractor shall fill trench or hole with concrete.

(3) Concrete will be used in all paved areas: A six inch (6") deep slab in the concrete trench width poured to the existing elevation. Concrete shall be three thousand (3,000) psi ready mix type conforming to ASTM specification C94, composed of Portland cement, sand and coarse aggregate, mixed with clear water.

(4) Barricades or metal plates shall be placed around or over all holes until concrete can withstand traffic.

(5) Concrete shall be level with existing surfaces. The city shall be notified of all cuts. (Ord. #2014-05, March 2014)

16-206. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

16-207. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city clerk. (1995 Code, § 16-208)

16-208. Supervision. The city clerk or his designee shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the municipality and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10)

hours before the work of refilling any such excavation or tunnel commences. (1995 Code, § 16-209)

16-209. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city clerk. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1995 Code, § 16-210)